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JAN 31 2002

In re Application of	:	OFFICE OF PETITIONS
Gary LeMon	:	
Application No. 09/899,728	:	DECISION GRANTING PETITION
Filed: July 3, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 1359.GLEM.C1	:	

This is a decision on the petition filed January 17, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **granted**.

This application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty; (2) the petition fee as set forth in 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply [request to rescind the nonpublication request] from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(f) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The instant petition has been found in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

A Corrected Filing Receipt which sets forth the projected publication date, May 9, 2002, accompanies this decision on petition.

This application is being forwarded to Technology Center AU 2164 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.



Frances Hicks

Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt